

GARY K. NELSON, THE ATTORNEY GENERAL  
STATE CAPITOL  
PHOENIX, ARIZONA

February 9, 1970

DEPARTMENT OF LAW OPINION NO. 70-6 (R-38)

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REQUESTED BY: HAROLD C. BENNETT  
Director  
Personnel Commission

QUESTION: May an employee against whom disciplinary action has been taken be represented by someone other than himself or an attorney at hearings before the Personnel Commission, as provided for in A.R.S. § 38-910?

ANSWER: No.

A.R.S. § 38-910.B provides in part:

"B. Hearings on such appeals [of disciplinary action] shall be open to the public, except in cases where the employee requests a confidential hearing, and shall be informal with technical rules of evidence not applying to the proceedings except the rule of privilege recognized by law. Both the employee and his employing agency shall be notified reasonably in advance of the hearing and may select representatives of their choosing, present and cross-examine witnesses, and give evidence before the commission. . . ."

In the case of Florez v. City of Glendale, Arizona Supreme Court No. 9672, filed December 30, 1969, the court reviewed an identical situation as it applied to the Glendale Personnel Board. At the time set for the hearing, the appellant therein requested that a representative of his labor union be allowed to appear for him before the board on his hearing in reference to discharge from employment. The request was denied, as the representative was not an attorney at law. The Supreme Court, in reviewing the matter, stated as follows:

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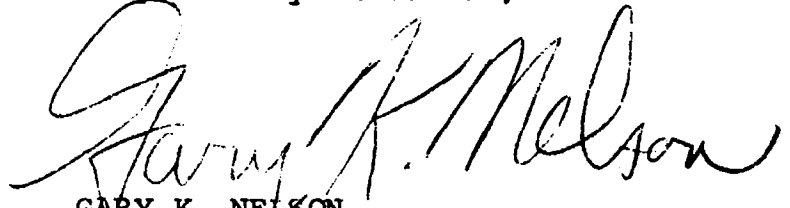
"This Court, in State Bar of Arizona v. Arizona Land Title and Trust Co., 90 Ariz. 76, 366 P.2d 1 (1961), indicated that the practice of law in Arizona is confined to those who have been duly licensed as attorneys. Justice Lockwood in that decision in setting out acts constituting the practice of law said:

"'. . . ; the preparation for another of matters for courts, administrative agencies and other judicial or quasi-judicial bodies and officials as well as the acts of representation of another before such a body or officer.' 90 Ariz. 76, 366 P.2d 1.

"We therefore hold that the representation of another before the Glendale Personnel Board by one not licensed as an attorney constitutes an unauthorized practice of law."

Therefore, it is hereby concluded that representation of an employee by another at hearings held pursuant to A.R.S. § 38-910 is the practice of law in Arizona and under the Florez case shall be confined to those who have been duly licensed as attorneys.

Respectfully submitted,

  
GARY K. NELSON  
The Attorney General

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